

**JUL 15 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON  
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NOEL MARTINEZ SANCHEZ,

Defendant - Appellant.

No. 02-50347

D.C. No. CR-01-02957-MJL

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
M. James Lorenz, District Judge, Presiding

Submitted July 11, 2003\*\*  
Pasadena, California

Before: KOZINSKI, FERNANDEZ, and RYMER, Circuit Judges.

Noel Martinez-Sanchez appeals his conviction and sentence for attempted  
reentry after deportation in violation of 8 U.S.C. § 1326. We affirm.

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\* This disposition is not appropriate for publication and may not be cited to or  
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral  
argument. See Fed. R. App. P. 34(a)(2).

Any error pertaining to the admission of Martinez-Sanchez's statements to INS Inspector West, the government's eliciting expert testimony from INS Inspector Armijo, or references by government witnesses to Martinez-Sanchez's criminal history is harmless beyond a reasonable doubt given the overwhelming evidence of guilt presented at trial, including Martinez-Sanchez's confession on the stand to each element of the offense.

Documents from Martinez-Sanchez's A-file were not inadmissible hearsay or admitted in violation of the Confrontation Clause. *United States v. Hernandez-Herrera*, 273 F.3d 1213, 1217-18 (9th Cir. 2001).

Finally, Martinez-Sanchez's argument that *Apprendi v. New Jersey*, 530 U.S. 466 (2000) limits *Almendarez-Torres v. United States*, 523 U.S. 224, 226 (1998) to the specific facts of that case is foreclosed by *United States v. Arellano-Rivera*, 244 F.3d 1119, 1127-28 (9th Cir. 2001), and *United States v. Pacheco-Zepeda*, 234 F.3d 411, 414-15 (9th Cir. 2000).

AFFIRMED.